

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

HORTON HOMES, INC.,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
V.)	2:07-CV-506-MEF
)	
LARUE BANDY, MARIE BANDY,)	
PATRICK PRITCHETT, WILLIAM)	
SHANER, ELSIE FONDREN)	
AVERETTE, WILLIAM CRUTHIRDS,)	
and SHERRIE CRUTHIRDS,)	
)	
Defendants.)	
)	

NOTICE OF FILING
DECLARATION OF STEVE SINCLAIR IN SUPPORT OF PLAINTIFF'S
OPPOSITION TO DEFENDANTS' MOTION TO COMPEL

COMES NOW Plaintiff Horton Homes, Inc., and hereby gives notice of its filing the "Declaration of Steve Sinclair" In Support of Plaintiff's Opposition to Defendants' Motion to Compel" attached hereto as Exhibit "A".

Dated this 6th day of March, 2008.

By:



JAMES L. PAUL
Georgia Bar No. 567600
THOMAS C. GRANT
Georgia Bar No. 297455
(Admitted Pro Hac Vice)

Counsel for Plaintiff Horton Homes, Inc.

Chamberlain, Hrdlicka, White, Williams & Martin
191 Peachtree Street, N.E., 34th Fourth Floor
Atlanta, Georgia 30303
(404) 659-1410
(404) 659-1852 (Facsimile)
james.paul@chamberlainlaw.com

SYDNEY F. FRAZIER
SJIS #FRA007
Cabaniss, Johnston, Gardner, Dumas & O'Neal, LLP
Suite 700
2001 Park Place North
Birmingham, Alabama 35203
(205) 716-5291
(205) 716-5389 (Facsimile)
sff@cabaniss.com

Co-Counsel for Plaintiff Horton Homes, Inc.

275379.1
730302-000067:3/6/2008

EXHIBIT "A"

TO

NOTICE OF FILING

DECLARATION OF STEVE SINCLAIR IN SUPPORT OF PLAINTIFF'S
OPPOSITION TO DEFENDANTS' MOTION TO COMPEL

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

HORTON HOMES, INC.,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	2:07-CV-506-MEF
)	
LARUE BANDY, MARIE BANDY,)	
PATRICK PRITCHETT, WILLIAM)	
SHANER, ELSIE FONDREN)	
AVERETTE, WILLIAM CRUTHIRDS,)	
and SHERRIE CRUTHIRDS,)	
)	
Defendants.)	
)	

DECLARATION OF STEVE M. SINCLAIR
PURSUANT TO 28 U.S.C. § 1746

NOW COMES **STEVE M. SINCLAIR**, who makes the following Declaration under penalty of perjury:

1.

My name is Steve M. Sinclair. I am over twenty-one years of age and am competent to make this Declaration.

2.

I am making this Declaration in support of Plaintiff Horton Homes, Inc.'s Brief in opposition to the Motion to Compel that Defendants have filed in the case referenced above.

3.

I am making this Declaration based on my own personal knowledge.

4.

I have been employed by Horton Homes, Inc. ("Horton Homes "), the Plaintiff in the case referenced above, for more than twenty years. I am also an officer of H&S Homes, LLC.

5.

Horton Homes is in the business of constructing manufactured homes at its plant and headquarters in Eatonton, Georgia; it has never been in the retail business of selling manufactured homes to the public.

6.

H&S Homes, LLC was formed in 1996 and has since sold more than 7,000 manufactured homes at more than 45 different sales lots located throughout the Southeast.

7.

The Defendants in this case, other than William Shaner, purchased manufactured homes (the "Subject Homes") that were built by Horton Homes. (William Shaner's mother purchased a manufactured home built by Horton Homes, in which William Shaner apparently lived.) H&S Homes, LLC purchased each of the Subject Homes from Horton Homes and then sold these homes to the

Defendants (with the exception of William Shaner). Horton Homes did not sell any manufactured homes directly to the Defendants.

8.

As an employee of Horton Homes, I have instructed the identification and segregation of documents which Defendants have requested in their discovery requests served in this case. This work has included the identification and segregation of agreements relating to each of the more than 7,000 manufactured homes that H&S Homes, LLC has purchased from Horton Homes over a period of more than ten years. The terms of these purchases are memorialized in invoices (the "Invoices"), which are typically two-to-three pages long and are each filed in a separate folder ("Sales Folder") that contains documentation relating to each manufactured home sold.

9.

Accordingly, the more than 7,000 Invoices are located in more than 7,000 separate Sales Folders. Altogether, the Sales Folders containing the Invoices would fill nearly 100 banker's boxes. So that the Invoices can be inspected by Defendants' counsel, the Sales Folders containing them have been moved into several adjacent rooms at the headquarters of Horton Homes, which is located at 101 Industrial Boulevard, Eatonton, Georgia 31024.

10.

These Sales Folders have been segregated and ready for review by opposing counsel, since December 2007.

11.

Attached hereto as Exhibit "A" are pictures that accurately show Sales Folders in the rooms where they have been moved for inspection by the Defendants' counsel. As indicated by these pictures, the more than 7,000 Sales Folders are filed in both banker's boxes and in filing cabinets.

12.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of March, 2008.


Steve M. Sinclair

Steve M. Sinclair, as an Employee of
Horton Homes, Inc.

274950.1
730302-000067 2/29/2008

EXHIBIT "A"
TO
DECLARATION OF STEVE M. SINCLAIR
PURSUANT TO 28 U.S.C. § 1746



02.28.2008

02.27.2008



02 27. 2008



02.27.2008



02.28.2008

02.28.2008

02.27.2008



CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served a true and correct copy of the within and foregoing "Notice of Filing Declaration of Steve Sinclair In Support of Plaintiff's Opposition to Defendants' Motion to Compel" on the following parties, through the Court's CM/ECF system and by manner of service as indicated below, in properly addressed envelopes, with adequate postage affixed thereon, as necessary, addressed as follows:

Michael S. Harper
213 Barnett Boulevard
P.O. Box 780608
Tallassee, Alabama 36078
(*Via Certified Mail, RRR #7007 0710 0002 1405 7205*)

Frank H. Hawthorne, Jr.
Randy A. Myers
Hawthorne & Myers LLC
322 Alabama Street
Montgomery, Alabama 36104
(*Via Certified Mail, RRR #7007 0710 0002 1405 7212*)

Dated this 8th day of March, 2008.

By: 

JAMES L. PAUL
Georgia Bar No. 567600
THOMAS C. GRANT
Georgia Bar No. 297455
(Admitted Pro Hac Vice)

Co-Counsel for Plaintiff Horton Homes, Inc.

Chamberlain, Hrdlicka, White, Williams & Martin
191 Peachtree Street, N.E., 34th Fourth Floor
Atlanta, Georgia 30303
(404) 659-1410
(404) 659-1852 (Facsimile)
james.paul@chamberlainlaw.com